

**REMARKS**

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Osawa, Japanese Patent No. 11-354116 A (English translation) ("Osawa"), and claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osawa in view of Sakamoto et al., U.S. Patent No. 6,255,019 ("Sakamoto").

Osawa is alleged by the Office to disclose a nickel metal hydride storage battery which includes each of the elements of claim 1. Claim 1 has been cancelled to avoid the 35 U.S.C. 102(b) rejection.

Regarding the rejection of claim 3, the Office notes that Osawa does not disclose a layer of a hydroxide or oxide formed on a surface of the positive electrode active material as recited in claim 3, but cites Sakamoto as allegedly teaching, in Col. 5, lines 8-10, a layer comprising yttrium oxide formed on the surface of a positive electrode active material in order to improve the charging efficiency at a high temperature.

Applicants note that Sakamoto discloses a cathode active material comprising particles of a solid solution or eutectic mixture nickel oxide, which has a crystal structure of  $\beta$ -Ni(OH)<sub>2</sub> and contains at least Mn, where Mn has a mean valence of not less than 3.3, and a coating layer of a solid solution or eutectic

mixture cobalt oxide formed on the surface of the particles and which contains at least one of Ni and Mn. Col. 5, lines 8-10, cited by the Examiner describes adding particles of yttrium oxide to the cathode of the active material described therein to improve charging efficiency at high temperature.

Claim 3 has been rewritten in independent form and has been amended to precisely recite that the layer of a hydroxide or oxide of calcium, strontium, scandium, yttrium, lanthanoids or bismuth is formed on a surface of the positive electrode and is in direct contact with the nickel hydroxide active material. This amendment is supported in the specification, *inter alia*, in the description of the preparation of the positive electrode in paragraph [0019].

Applicants respectfully submit that the battery recited in amended claim 3 is distinct from the battery of the proposed combination of Osawa and Sakamoto.

Yttrium oxide particles are described in Col. 5, lines 8-10, of Sakamoto as being added to the cathode active material. However, the yttrium oxide of Sakamoto is formed on the layer of cobalt oxide of the cathode active materials of Sakamoto and not on the nickel hydroxide. Claim 3 as amended excludes a layer of cobalt oxide being formed on the nickel hydroxide and requires that the layer of a hydroxide or oxide of calcium, strontium, scandium,

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yttrium, lanthanoids or bismuth be formed directly on the nickel hydroxide. Thus, the proposed combination of Osawa and Sakamoto will not result in the battery recited in amended claim 3.

Removal of the 35 U.S.C. 102(b) and 35 U.S.C. 103(a) rejections of the claims is in order and is respectfully requested.

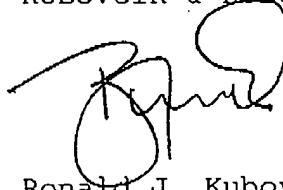
The foregoing is believed to be a complete and proper response to the Office Action dated November 15, 2007.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension and any additional required fees may be charged to Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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